

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**CHRISTOPHER TYLER LOFTON,  
Individually and on behalf of the ESTATE  
of CHRISTOPHER M. LOFTON, et al.,**

Plaintiffs,

V.

**MCNEIL CONSUMER & SPECIALTY  
PHARMACEUTICALS, a Division of  
MCNEIL-PPC, INC., and JOHNSON &  
JOHNSON,**

Defendants.

§ § § § § § § § § § § § § § § § §

Civil Action No. **3:05-CV-1531-L**

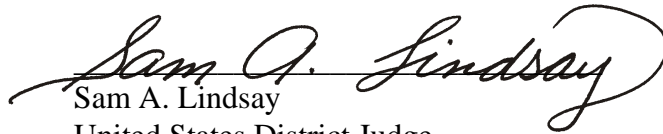
## ORDER

Before the court is Defendants’ Supplemental Motion for Summary Judgment, filed July 30, 2010. Defendants McNeil Consumer & Specialty Pharmaceuticals and Johnson & Johnson (“Defendants”) moved to dismiss the remaining claims brought by Plaintiffs Christopher Tyler Lofton, Lauren Lofton, and Tegan Lofton (“Plaintiffs”). On August 20, 2010, Plaintiffs filed their response and brief in support. They state: “Based on Texas case law that has come down since the Original Motion for Summary Judgment and Response were filed, Plaintiffs no longer have sufficient evidence on [their remaining] claims upon which Defendants move for Supplemental Summary Judgment and Defendants’ Motion should be granted.” Pls.’ Brief 1-2.

In light of Plaintiffs’ concession, the record, and applicable law, the court determines that there is no genuine issue of material fact with respect to Plaintiffs’ remaining claims for defective design and breach of implied warranty, and Defendants are therefore entitled to judgment as a matter of law on these claims. The court therefore **grants** Defendants’ Supplemental Motion for Summary

Judgment and **dismisses with prejudice** Plaintiffs' claims for defective design and breach of implied warranty. Because these are Plaintiffs' only remaining claims, the court will enter judgment by separate document.

**It is so ordered** this 24th day of August, 2010.

  
Sam A. Lindsay  
United States District Judge